



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants: MERRIMAN, Dwight Allen et al.
Appl'n No.: 10/798,342
Filing Date: 12 March 2004
For: METHOD OF DELIVERY, TARGETING, AND
MEASURING ADVERTISING OVER NETWORKS

Group Art Unit: 3627
Examiner: Laneau, Ronald

Mail Stop APPEAL BRIEF – PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

SIR:

Appellants submit this Reply Brief in response to the Examiner's Answer mailed June 28, 2006. Claims 1-22 remain pending, all of which stand finally rejected.

RESPONSE TO THE EXAMINER'S ANSWER

Appellants maintain their original arguments as presented in the Appeal Brief. The following specific points are provided in response to the Examiner's Answer.

The Examiner Has Neglected To Respond To Appellants' Appeal Brief Arguments

In the Appeal Brief, Appellants set forth and supported the following three arguments:

- 1) claims 1-15 and 19-22 are not anticipated because Wexler does not disclose selecting an ad “based upon stored information about said user node” as recited in independent claim 1,
- 2) claims 1-15 and 19-22 are not anticipated because Wexler does not disclose selecting an ad “in response to said advertisement request”, wherein “said advertisement request is based upon a link sent from an affiliate node to said user node in response to a content request sent from said user node to said affiliate node” as recited in independent claim 1, and

- 3) claims 16-18 are not obvious because (in addition to the reasons above) the Examiner's Official notice of the rejection is based on the term "lookup tables", which is not mentioned in the claims or specification.

In the Examiner's Answer, the Examiner failed to acknowledge any of Appellants' above-identified arguments, much less provide a statement - as required by MPEP 1207.02 - of whether the Examiner disagrees with each of the contentions of appellants in the brief with respect to the issues presented and an explanation of the reasons for disagreement with any such contention.

Rather, it appears that the Examiner merely copied verbatim the "Response to Arguments" section of the Final Rejection into the "Response to Argument" section of the Examiner's Answer, the content of which is not responsive to Appellants' above-identified arguments. In fact, the first two above-identified arguments were specifically crafted in response to the Examiner's comments in the "Response to Arguments" section of the Final Rejection.

The Examiner Has Neglected To Provide Evidence of IDS Consideration

In the Appeal Brief, Appellants requested that the Examiner provide evidence of the consideration of the IDS and substitute form PTO-1449 filed on January 13, 2005. This issue was not acknowledged in the Examiner's Answer.

CONCLUSION

Appellants respectfully request withdrawal of the rejections of the pending claims. Issuance of a Notice of Allowance is earnestly solicited.

Although not believed necessary, the Office is hereby authorized to charge any fees required under 37 C.F.R. § 1.16 or § 1.17 or credit any overpayments to Deposit Account No. 11-0600.

The Examiner is invited to contact the undersigned at 202-220-4200 to discuss any matter regarding this application.

Respectfully submitted,

Dated: August 28, 2006



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